

Date Issued: May 17, 1982 (AGO 82-41)

Requested by: Representative Francis J. Wald

- QUESTION PRESENTED -

Whether "fun casinos" are legal if operated by giving free chips every hour on request to patrons and additional chips to patrons with each purchase, the chips being used to play bingo, tip jars, raffles or other prize games.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that the "fun casinos" are legal only if no consideration is given by any of the patrons to participate in any of the games.

- ANALYSIS -

The terms "gambling" and "lottery" are defined in section 12.1-28-01(1), (2) of the North Dakota Century Code as follows:

12.1-28-01. GAMBLING - DEFINITIONS. As used in this chapter:

1. "Gambling" means risking any money, credit, deposit, or other thing of value for gain, contingent, wholly or partially, upon lot, chance, the operation of gambling apparatus, or the happening or outcome of an event, including an election or sporting event, over which the person taking the risk has no control. Gambling does not include:

a. Lawful contests of skill, speed, strength, or endurance in which awards are made only to entrants or to the owners of entries; or

b. Lawful business transactions, or other acts or transactions now or hereafter expressly authorized by law.

2. "Lottery" means any plan for the distribution of a thing of value, whether tangible or intangible, to a person or persons selected by chance from among participants, some or all of whom have given a consideration for the chance of being selected. * * *

As long as no consideration is given, at any time, by any of the participants in the games, gambling does not occur. If any consideration is risked for a chance to win a prize, that would constitute gambling in violation of state law. Consideration sufficient to constitute unlawful gambling occurs when anything of value is risked, including the paying for drinks in return for "free" chips. Only those forms of gaming authorized by law are permissible and only when conducted by eligible organizations.

The licensed distributors of gaming equipment may, under the administrative rules, only distribute equipment for games of chance to organizations which have been first licensed

by the Attorney General's office. Therefore, a business may not lawfully obtain equipment for games of chance from licensed distributors if that business is not licensed by the Attorney General's office to engage in legalized games of chance.

- EFFECT -

This opinion is issued pursuant to section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

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